

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: : 03-MD-1570
:
TERRORIST ATTACKS ON SEPTEMBER 11, 2001 : 500 Pearl Street
: New York, New York
:
: July 13, 2011
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TRANSCRIPT OF CIVIL CAUSE FOR CONFERENCE
BEFORE THE HONORABLE FRANK MAAS
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Federal Insurance: SEAN P. CARTER, ESQ.

For Dubai Islamic Bank: STEVEN COTTREAU, ESQ.

For Havlish: TIM FLEMING, ESQ.

For Plaintiffs: JAMES KREINDLER, ESQ.
ROBERT T. HAEFELE, ESQ.
TIM FLEMING, ESQ.

For Defendants: MARTIN F. McMAHON, ESQ.
ALAN KABAT, ESQ.

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1 THE CLERK: This is a conference in the matter of The
2 Terrorist Attacks of September 11, 2001. Counsel, please state
3 your name for the record.

4 THE COURT: Well, I think like Judge Daniels we won't
5 put all the appearances on the record but anybody who
6 speaks should note their appearance.

7 While we were off the record I checked with my
8 chambers. What I propose is rather than having two conferences
9 in September that we use the September 9th date and not the
10 other date that was suggested. Then let me give you a series
11 of dates, all of which will be at 2 p.m.; October 19th,
12 November 16th, and we'll put this in an order, December 14th,
13 January 11th, and February 15th.

14 Obviously, as in the past, if we need to cancel some
15 of the, or can cancel some of those dates and we need to adjust
16 others, we'll do that.

17 There was the issue that Judge Daniels raised of the
18 inquest hearing and so I guess the question is when is Federal
19 Insurance in a position to file its papers?

20 MR. HAEFELE: Your Honor, before we begin, may I have
21 one clarification on the September 9th date, the --

22 THE COURT: The time?

23 MR. HAEFELE: -- time was at 11 o'clock and are you
24 saying it's now moved to 2?

25 THE COURT: No, I'm not moving the time. Whatever

1 time it was, it is.

2 MR. HAEFELE: Okay. Thank you.

3 THE COURT: All the others will be at 2 p.m. I'm
4 sorry if I didn't make that clear.

5 MR. CARTER: Your Honor, we had previously I think
6 back in --

7 THE COURT: Just tell us --

8 MR. CARTER: Oh, I'm sorry. Sean Carter on behalf of
9 the Federal Insurance plaintiffs.

10 THE COURT: And I should have done the same thing to
11 Mr. Haeefele when he made his comment. Go on.

12 MR. CARTER: We had in fact previously filed a brief
13 with supporting affidavits in support of the request for an
14 assessment of damages on behalf of the clients back in I
15 believe 2006 or so.

16 THE COURT: Which contains the damages case?

17 MR. CARTER: Yeah. They contain affidavits from
18 representatives of the relevant insurers who explained the
19 basis for the calculation of damages, how their companies went
20 about calculating the loss suffered by their insureds, how they
21 came up with the particular damage figures that they're
22 claiming in the suit. The brief also includes legal argument
23 regarding the relevant standard for evaluating damages under
24 the Anti-Terrorism Act.

25 So assuming that evidence is acceptable to Your Honor

1 and there's also a discussion in the brief about it being
2 competent for purposes of a default damages inquest, we can go
3 forward right now.

4 If Your Honor believes that witness testimony is
5 necessary, we can do it in short order. It's just a matter of
6 me checking schedules.

7 THE COURT: Well, typically I hear inquests and
8 obviously this is not a typical case, but typically I prefer to
9 do it on the papers if there's no particular reason to have an
10 evidentiary hearing. So what I'd ask is that you send me a
11 courtesy copy of the papers and I think you can proceed unless
12 you hear otherwise on the assumption that I will consider it on
13 the papers. I don't know what the status was of deadlines for
14 any opposition papers when those papers were filed. So it
15 seems to me it's probably appropriate to say that any
16 opposition papers should be filed by July 29th.

17 MR. CARTER: Your Honor, Sean Carter again. In
18 relation to the original filing there were letter submissions
19 made by the defendants' executive committee opposing the
20 request for entry of a monetary default. That played out again
21 in relation to the submissions for this agenda.

22 Our view is that the defendants' executive committee
23 by virtue of limitations on its own authority doesn't have the
24 capacity to raise substantive arguments and that the kind of
25 individual inquiry that would be necessary to determine whether

1 a defendant has standing or a valid claim of prejudice can't be
2 done based on a filing by the defendants' executive committee.
3 It has to come from a defendant.

4 THE COURT: Well, let me interrupt you just because I
5 think that issue really is one for Judge Daniels to resolve.
6 As I interpret -- well, maybe not. I thought the opposition
7 that was filed by the defendants was this is not the time to do
8 this for various reasons like the potential for contribution
9 and the like. Unless the opposition related to well the number
10 you suggest is wrong or there's no evidentiary basis, I'm not
11 sure that there's an issue for me to resolve. My role in this
12 is essentially an accounting exercise of sorts. I'm minimizing
13 it but it's basically come up with a number which is justified
14 by the law and the facts, in my view. Whether that judgment
15 should be entered, whether somebody has standing to object to
16 that number is really Judge Daniels' problem in my view. I'm
17 not sure whether that responds to what you were saying fully.

18 MR. CARTER: It does, Your Honor. Then I think the
19 concern I raised is not properly before you and unnecessary.

20 THE COURT: There was also, I gather, the suggestion
21 from Judge Daniels that perhaps other non-Federal Insurance
22 plaintiffs could participate on the plaintiffs' side in this
23 process.

24 MR. CARTER: Your Honor, I think our discussion on
25 that point merged two issues. I believe the Havlish plaintiffs

1 were essentially asking for an inquest on damages relative to
2 the default judgment they're pursuing against Iran.

3 THE COURT: Okay.

4 MR. CARTER: And with regard to that, I think what we
5 would say is that with regard to Iran there is first the
6 necessity of the entry of a default judgment as to liability
7 which under the Foreign Sovereign Immunities Act require some
8 inquiry into whether there's a prima facie case against the
9 defaulting sovereign to support the claims at issue.

10 THE COURT: Which is the issue that is before Judge -
11 - will shortly be before Judge Daniels.

12 MR. CARTER: It's before Judge Daniels with what was
13 referred to today as a box of documents.

14 THE COURT: Right.

15 MR. CARTER: And for the reason I alluded to earlier,
16 we really do think these other assets are subject to, you know,
17 very vulnerable to attack by other parties. You know, I prefer
18 to avoid waiting on that process to play out and Havlish to do
19 this inquest with regard to Federal's essentially liquidated
20 damages as to Al Qaeda. And I'm happy to raise that issue with
21 Havlish and see if we can reach agreement on it. I spoke to
22 one of Mr. Fleming's co-counsel earlier this week and I think
23 we're on the same page that these really were sort of discrete
24 issues.

25 THE COURT: Well, discrete or not, if you're correct

1 that a liability finding or judgment necessarily must be
2 entered first then even if it's the same issue it's on two
3 different tracks. I've set a track for yours. I don't know
4 how long it will take Judge Daniels to deal with the Havlish
5 motion but unless at some point there's at least the
6 opportunity for the two hearings to be on the same track,
7 there's really nothing for me to resolve in that area.

8 MR. CARTER: Thank you, Your Honor.

9 MR. COTTREAU: Your Honor, just one quick point.
10 Steve Cottreau for --

11 THE COURT: Yes.

12 MR. COTTREAU: -- Dubai Islamic Bank. Can we just
13 get clarification as to whether the filings of the plaintiffs
14 made reference to in 2006 regarding damages was filed under
15 seal or whether that's a public filing?

16 MR. CARTER: Your Honor, it's a public filing and in
17 fact the copies, the courtesy copies of those documents were
18 circulated to counsel in relation to the agenda submissions and
19 the briefing as to whether or not Judge Daniels should proceed
20 with the Al Qaeda default, but I'm happy to re-circulate them.
21 And obviously they'll be re-circulated at the time we submit
22 the courtesy copies.

23 THE COURT: How extensive are the materials just out
24 of curiosity?

25 MR. CARTER: They're not particularly extensive, Your

1 Honor, and the reason for that is that the Anti-Terrorism Act
2 contains language which entitles the party injured as a result
3 of a terrorist attack as a result of an injury to their
4 business or property to recover for that injury and that
5 language, that statutory language has always been interpreted
6 to mean a loss of money. And as a result, the argument is what
7 the insurance company paid is what they're entitled to recover
8 under the Anti-Terrorism Act and it doesn't take much really to
9 authenticate that amount.

10 THE COURT: And there are no DEF claims in there,
11 it's just property?

12 MR. CARTER: It's property/business interruption.

13 THE COURT: Okay.

14 MR. KREINDLER: Your Honor, just --

15 THE COURT: Yes. Sure.

16 MR. KREINDLER: -- an idea again, while we're --

17 THE COURT: Yes, Mr. Kreindler.

18 MR. KREINDLER: Thank you. While we're together and
19 thinking out loud, if the nature of the defendants' objectives
20 is to the amount for fear that, you know, a huge number could
21 prejudice them at some later time, perhaps there would be a
22 solution since what we're looking at are these frozen sums that
23 are a drop in the bucket where they simply just say pick a
24 modest number and say we do not object to whatever, \$50
25 million, \$100 million, that could simplify the process a bit

1 perhaps since the frozen assets can't pay the Federal number or
2 anything close to it.

3 THE COURT: But are the Federal Insurance plaintiffs
4 prejudiced if their claim, and I don't know what the real
5 numbers are, if their real claim is \$500 million and there's a
6 stipulation that nobody objects to entry of \$50 million, does
7 that affect potentially judgments against --

8 MR. KREINDLER: Well, yeah --

9 THE COURT: -- in the Federal Insurance case against
10 other defendants?

11 MR. CARTER: Your Honor, if I may, you know, the way
12 that we read the law is that this particular default judgment
13 would be binding only as to Al Qaeda and we would stipulate to
14 that that it's for purposes solely of a judgment as to Al Qaeda
15 and the amount of damages properly claimed against any other
16 party would be subject to proceedings as to that party. That
17 would be a two-way street. You know, if we were seeking a
18 greater number under some theory then we would have an
19 opportunity but at the same time they'd have an opportunity to
20 object. And we're willing to stipulate to that.

21 THE COURT: And I think I would still have to make a
22 finding that the damages are at least whatever that stipulated
23 number is but certainly it would truncate the process so I
24 certainly would encourage the two sides to see whether there's
25 some resolution that can be, or accommodation that could be

1 reached in that regard failing which I'll just proceed on the
2 schedule I outlined earlier.

3 MR. KREINDLER: Great.

4 MR. CARTER: Thank you, Your Honor.

5 THE COURT: Anything else with respect to that issue?

6 Then I think the only discovery issue that's before
7 me, and I'm probably -- well, I'll use the anglicized name, the
8 Pete Seda application, and one of the things that perplexes me
9 is I've asked from time to time are there any discovery issues
10 hanging out there. There was the motion for the stay that
11 apparently was filed in January and quite frankly because
12 there's a lot of paperwork that flows through the docket sheet
13 in this MDL case I was not aware was an issue potentially for
14 me to deal with until sometime in June, even though it's been
15 kicking around since January. So let me just ask you again.
16 At the moment, other than this one issue were there other
17 things that I should be dealing with?

18 MR. HAEFELE: Your Honor, Robert Haefele from Motley
19 Rice.

20 THE COURT: Yes.

21 MR. HAEFELE: The other issue that was on the agenda,
22 another discovery issue, was the issue related to Muslim World
23 League and IIRO which I think was also on the agenda and it was
24 also the subject of a hearing last time we were here. And in
25 terms of discovery disputes that are ripe for Your Honor's

1 consideration, I think that lists them all.

2 THE COURT: Okay. Let's deal with -- tell me how to
3 pronounce the name. Is it Perouz Sedaghaty? Close enough?
4 And it's your application, Mr. Kabat. It does seem to me that
5 there's a significant difference between many of the cases
6 frankly that both sides cite and this one in that here your
7 client has been convicted. Putting aside whether the cases
8 deal with the same subject matter either in terms of the
9 pleadings or in terms of the proof, it seems to me that that
10 makes this a somewhat tougher case for you although I gather a
11 new trial motion is pending.

12 MR. KABAT: Yes, it is.

13 THE COURT: And as I read the case law, it's purely a
14 matter of discretion and different judges would reach different
15 conclusions at different times based on different factual
16 scenarios. So I have read the original motion. I've read the
17 letters back and forth. I only found one case when I was
18 briefly looking at the issue over the past few days where the
19 circumstance was that the defendant had been convicted and in
20 that case, which is General Dynamics v. Selb Manufacturing Co.,
21 an Eighth Circuit case, 481 F.2d 1204, the facts as recited by
22 the Eighth Circuit were that both Selb and a codefendant had
23 been convicted of conspiring to defraud the US in connection
24 with contract fraud and neither Bass nor Selb attacked the
25 sufficiency of the evidence to support the finding of guilt on

1 the conspiracy count. And then I'm skipping some of the
2 language. And the Court continues quote, "It is true that the
3 case was being appealed and to that extent the criminal
4 proceedings were not final. But the trial court also had to
5 weigh the injustice to General Dynamics. The net worth of Selb
6 and its affiliated companies, all solely owned by the
7 codefendant, had been declining markedly. The litigation had
8 been pending over two years. Many employees of the companies
9 involved had departed. With the passage of time the testimony
10 of witnesses would be lost," et cetera, et cetera. And then
11 says, quote, "We believe the entire matter of discovery and
12 trial could have been handled in a manner which would have
13 comported with justice for both sides. Answers to
14 interrogatories could have been sealed except for the use of
15 the parties and their counsel in the civil litigation."

16 And I said I know that there's a new trial motion
17 pending. Is the theory of the new trial motion that it was
18 improper to introduce all the evidence about terrorist
19 connections rather than simply trying a tax fraud case or is
20 there more to it than that?

21 MR. KABAT: Yes, Your Honor, if I may? Alan Kabat,
22 and if I may speak to that. We briefed why even though the
23 Oregon case was nominally a tax and conspiracy case, the
24 Government put on lots of evidence about an alleged terrorism
25 attempt which it used as a basis for liability against Mr. Seda

1 in this case. And there's even some of the same expert
2 witnesses in both cases. But one overarching point I would
3 like to make before we even get into the similarities between
4 the two cases --

5 THE COURT: Well, let me just ask a question. Is the
6 new trial motion a motion which contests the sufficiency of the
7 evidence as to the attacks charge itself or is it just you
8 hopefully prejudiced us by allowing all of this stuff in?

9 MR. KABAT: It's a little more complex than that.

10 THE COURT: Okay.

11 MR. KABAT: The primary issue is that the Government
12 failed to disclose that they had made substantial incentive
13 payment to certain Government witnesses. They did not disclose
14 that to the defense counsel before the trial.

15 THE COURT: Okay. So that's a Brady issue but again,
16 it doesn't go to the sufficiency of the evidence.

17 MR. KABAT: But a post trial motion also addressed
18 that as well as the failure to disclose, as well as the
19 prejudice [unintelligible] been covered in the post trial
20 motion.

21 THE COURT: One thing I'd ask you to do is as soon as
22 possible, and I'll ask you how long it will take, to send me a
23 copy of the new trial motion papers.

24 MR. KABAT: From the Oregon case?

25 THE COURT: Yes. How long will it take to get me

1 that?

2 MR. KABAT: I'll do that when I get back to DC.

3 THE COURT: Okay. Fine.

4 MR. KABAT: And if I may make one other comment?

5 THE COURT: Sure.

6 MR. KABAT: The protective order in the Oregon case
7 specifically prohibit Mr. Seda from turning over anything he
8 received from the Government that was seized by the Government
9 back in February '04. Even we, civil defense counsel, do not
10 have access to those materials and the Court really cannot
11 order Mr. Seda violate the protective order by turning over
12 documents to the plaintiffs in this case. The plaintiffs in
13 their reply brief said something to the effect of well, the
14 protective order only covered discovery that was put in by the
15 Government. It doesn't cover what was obtained during the
16 search and seizure. However, I have confirmed with the federal
17 public defender from Oregon who represents Mr. Seda that in
18 fact the protective order does cover everything that was seized
19 back in February of '04. Mr. Seda has no documents other than
20 what was seized back then. I mean Mr. Seda --

21 THE COURT: Well, that potentially could be dealt
22 with through a modification of the order in Oregon. For
23 example, it could provide that documents can be produced by the
24 defendant in that case and in this case here subject to
25 confidentiality order and that any documents which were used in

1 court filings would be under seal. I mean it seems to me that
2 if a Fifth Amendment issue is resolved then the potential of
3 prejudice to the defendant, the issue of prejudice to the
4 Government is much more easily dealt with.

5 MR. KABAT: Well, the plaintiff wanted to file a
6 motion to intervene in the Oregon criminal case and seek a
7 modification of it, Mr. Seda's Oregon attorney can certainly
8 respond to that.

9 THE COURT: Well, but I am interested in having
10 discovery moved forward. I could simply call the magistrate
11 judge in Oregon and say this may not be a development you
12 thought of or anticipated. Is there a problem modifying the
13 order. He can then consult with the parties and the district
14 judge there. And if it isn't, I don't know that the defendant
15 has a dog in that fight. He has no interest in keeping those
16 documents confidential in the criminal case. It's the
17 Government it seems to me that would have that interest.

18 MR. KABAT: Well, but he also doesn't have the
19 constitutional issues under Hubbell, you know, and --

20 THE COURT: You're talking about his Fifth Amendment?

21 MR. KABAT: Yes.

22 THE COURT: Sure. That it seems to me is the more
23 central question before me. I think I understand the issues.
24 Is there anything either side wishes to add with respect to the
25 application that's before me?

1 MR. HAEFELE: Your Honor, this is Robert Haeefele from
2 Motley Rice.

3 THE COURT: Yes.

4 MR. HAEFELE: I just want to make one clarification.
5 Or I'd like Your Honor to ask for clarification. It's my
6 understanding that the documents that were seized, which
7 included not only physical paper documents but other items
8 including things like computers and hard drives and things
9 along those lines, were all returned to the defendant.

10 THE COURT: I'm glad you made that point because that
11 was one of the things I wanted to ask. Is that correct?

12 MR. KABAT: Subject to the protective order. That's
13 my understanding from the federal public defender. And again,
14 we are not counsel in Oregon case and I have never seen those
15 documents that were seized and returned. But I was
16 specifically told by the federal public defender that they are
17 under the protective order.

18 MR. HAEFELE: Your Honor, they're --

19 THE COURT: Well, he or she may not be the last word
20 on this subject.

21 MR. HAEFELE: Right. And I guess that's one of the
22 questions that I also had, Your Honor, is that under the
23 circumstances it would seem that when we made the request and
24 they identified those documents as something that was
25 responsive to the request that it was incumbent upon the

1 defendant to go to the prosecution and ask them whether or not
2 it was covered. And I would imagine at that point it would
3 cause the prosecution to stand up. And I'm kind of curious as
4 to why there is no indication from the prosecutor's office in
5 this case that they had concerns over what we get as
6 representations from the defendant who obviously has an
7 interest. Maybe not a proper interest, but an interest in
8 preventing us from getting the documents.

9 THE COURT: Well, if I conclude, and I said Mr. Kabat
10 has an uphill fight, if I conclude that there's no reason any
11 longer for a stay based on Fifth Amendment grounds, then the
12 only other potential stumbling block is the Oregon magistrate
13 judge order and I don't see -- I guess I'll ask both sides
14 whether they see any problem with my in the first instance if I
15 get that far, calling the magistrate judge and saying would
16 this be a problem? It's fine that the public defender has a
17 view but it seems it's more important what the view of the
18 court that issued the order is.

19 MR. HAEFELE: Your Honor, I can tell you that, on
20 behalf of the plaintiffs, we don't have a problem. Again,
21 Robert Haeefe. We don't have a problem with Your Honor making
22 that call. But I would call Your Honor's attention to the fact
23 that the order specifically covers only discovery material and
24 there was a number of items that were trial items that we used
25 and those aren't under the purview of the order and those ought

1 to be produced.

2 THE COURT: Mr. Kabat?

3 MR. KABAT: Well, we did not have that for the trial
4 and I had asked the Oregon federal public defender and he said
5 he could not turn over the trial exhibits to me.

6 THE COURT: Okay. But the question is whether you
7 have a problem with my consulting with the magistrate judge in
8 Oregon.

9 MR. KABAT: Well, I think it would perhaps be helpful
10 if I could have an opportunity just to give them a heads up,
11 you know.

12 THE COURT: Sure. I don't have a problem with that.
13 Okay.

14 MR. KABAT: Would you like me to send you the Oregon
15 briefs first and then you can review that before making the
16 call? I mean in terms of the timing it might be helpful if I
17 send you the post trial briefs.

18 THE COURT: Oh, sure. That's fine. Yes. I mean
19 until I deal with the -- if I decide the Fifth Amendment issue
20 in your favor then the rest of this is academic. If I decided
21 against you then, or your client, then I need to go to the
22 second piece of this, the effect of the Oregon order.

23 MR. HAEFELE: Your Honor, just one last comment. I'm
24 not sure that it plays necessarily on the legalities of it but
25 it certainly I would think play into Your Honor's

1 considerations particularly in the circumstances that you have
2 discretion here. It does call into question the fact that when
3 we have been over the course of this litigation pressing for
4 discovery deadlines that the defense counsel has pressed for
5 particular deadlines that are completely contrary to the notion
6 that discovery shouldn't be proceeding as to the defendant that
7 he's calling for a deadline for that discovery.

8 THE COURT: I recognize there may be some tension
9 there. I recognize that there are arguments that could be made
10 in terms of waiver or that a motion for a stay is not the same
11 as actually receiving a stay. I don't just parenthetically
12 disagree with that. But I prefer to deal with this on the
13 merits and reach some resolution and then move on one way or
14 the other.

15 So with that said, let me turn to the other issue,
16 the Muslim World League and IIRO.

17 MR. CARTER: Your Honor, thank you. Just to go back
18 and review where we were when we last met concerning this
19 issue, the Court had issued a directive to the Muslim World
20 League and IIRO to bring themselves into complete compliance
21 with the Court's earlier orders compelling certain discovery by
22 I believe it was the 8th of July. And Mr. McMahon, on behalf
23 of his clients, represented at that time that they would in
24 fact be in compliance. And in subsequent letters to the Court
25 has taken the position that they have produced all responsive

1 materials and conducted diligent searches to find all those
2 materials.

3 Per Your Honor's instruction, we did in fact have a
4 conference call with Mr. Radhi who has been appointed as the
5 person with primary responsibility for collecting the
6 responsive documents on behalf of both the Muslim World League
7 and IIRO. Although Mr. Radhi was at one time employed by each
8 of those organizations for various terms --

9 THE COURT: Spell Radhi just so the transcriber has
10 it.

11 MR. CARTER: R-A-D-H-I. At this point, and I think
12 going back about two years now Mr. Radhi is a retiree,
13 presently 65 years old, who is working on a purely volunteer
14 basis in relation to this effort and not being paid at all. So
15 he's not an actual employee of either organization.

16 What we think the call primarily disclosed is that
17 there hasn't been any truly diligent inquiry or search to find
18 all of the potentially responsive documents. I think there are
19 a few examples that sort of serve to flush that out.

20 Your Honor, among other things, ordered that the IIRO
21 produce all documents pertaining to the activities of an
22 individual named Mujil, M-U-J-I-L, who had been designated in
23 2006, well after this litigation was pending, by the United
24 States Government and the UN. Mr. Mujil was at various times
25 the director of the eastern province branch of the IIRO within

1 the Kingdom of Saudi Arabia. That branch, at least until 2002,
2 had authority for directing and supervising certain IIRO
3 projects in, among other areas, the Philippines and Indonesia
4 which of course are primary areas of interest and concern in
5 this litigation, and we've gone through that a number of times.

6 As a result of that, one of the questions we asked
7 Mr. Radhi was whether or not someone had actually gone to the
8 eastern province branch and looked for any records, and the
9 answer to that was no. The search has been constrained to a
10 warehouse facility and no inquiry has been made within the
11 eastern province branch as to whether there are any documents.
12 Mr. Radhi acknowledged to us that of course, as one would
13 expect, Mr. Mujil must have generated documents during the
14 course of his 18-year employment with the IIRO in the course of
15 his activities as the director and that it was of course
16 reasonable to expect that certain of those documents would have
17 been in the eastern branch, yet no one has gone there to look
18 for those documents.

19 Your Honor also directed that the IIRO produce
20 documents pertaining to the Philippine and Indonesian branches.
21 Along the similar lines, we asked Mr. Radhi whether anyone had
22 checked within those offices for any documents. The Indonesian
23 office is, as we understand it from our conversation with him,
24 still operating. The Philippine office was in operation as we
25 understand it until 2006 after discovery had commenced against

1 the IIRO and only closed after it was designated. Apparently
2 no one has gone to the Philippine or Indonesian branches of the
3 IIRO to try and find any documents they may have.

4 As an aside, we were told very specifically that the
5 IIRO is a very centralized organization and the branch offices
6 can't do anything without getting the approval and providing
7 documentation to the headquarters. So these documents in the
8 branch offices are by admission within the custody and control
9 of the IIRO of Saudi Arabia.

10 THE COURT: When you say we were told, you're
11 referring to part of the conversation with Mr. Radhi or --

12 MR. CARTER: Correct, Your Honor. And also within
13 documents that had been produced concerning the internal
14 operating procedures particularly as they've existed post 9/11.

15 THE COURT: Right. I know you've made submissions to
16 me in the past. That's why I was asking.

17 MR. CARTER: Correct, correct. The IIRO and Muslim
18 World League also have recently provided to Mr. McMahon sets of
19 banking documents that initially we were advised were printed
20 on dot matrix printers in long sort of streaming sheets. And
21 we were told that the print was essentially very light and that
22 they couldn't be scanned or copied so that we would have to
23 come to Mr. McMahon's office to review them. Given the
24 impracticality of trying to do any analysis of banking records
25 in someone else's office we asked whether or not they could in

1 fact simply be reprinted from whatever digital file generated
2 them in the first place and we were told that that would not be
3 possible because they were originals from the archive.

4 When we discussed these records -- one more point,
5 Your Honor. These records relate to a period from 1995 through
6 I believe 2002. When we discuss these records with Mr. Radhi,
7 what we were told was that they were in fact provided to the
8 IIRO and Muslim World League by their banks, Al Rajhi Bank and
9 National Commercial Bank, during any early stage of this
10 litigation and they've had them since that time. Mr. Radhi
11 does not know whether those banks could regenerate those
12 printouts so that we would have our own copies because he
13 hasn't asked.

14 And in addition, although the Court orders directed
15 that we get banking materials from 1992 forward, Mr. Radhi has
16 never gone to them to ask whether or not they can generate
17 printouts from the period of 1992 through 1995 as directed by
18 this order. So there hasn't even been an inquiry to that
19 effect.

20 In addition, Mr. Radhi confirmed that there were in
21 addition to the Al Rajhi and NCB Bank accounts --

22 THE COURT: Just again for the record spell Al Rajhi.

23 MR. CARTER: A-L, R-A-J-H-I. In addition to the Al
24 Rajhi and National Commercial Bank bank accounts Mr. Radhi
25 confirmed that individual offices outside of Saudi Arabia would

1 of course have their own bank accounts locally. In other
2 words, we don't have any of those bank statements whatsoever.

3 So in sum total, we felt that the phone call we had
4 with Mr. Radhi merely served to confirm that very little
5 effort, very little true effort, has been invested in actually
6 searching and confirming that all responsive materials have
7 been aggregated and produced. And you know there have been
8 some very specific orders and frankly we've been at this effort
9 to try and obtain these particular documents for many years
10 now. As Your Honor can probably appreciate, we're sort of
11 reaching the point of exhaustion.

12 THE COURT: Mr. McMahon? Apparently he's reached the
13 point of exhaustion also. I know I asked him to mute his
14 phone. Maybe it's taking a second. Why don't you call him on
15 --

16 MR. McMAHON: Hello?

17 THE COURT: Oh. I take it you heard everything that
18 Mr. Carter just said. Okay?

19 MR. McMAHON: Yes. I'll try to take it the way Mr.
20 Carter presented it.

21 THE COURT: Well, let me ask you a question at the
22 beginning because I think it was last time we spoke you said
23 that you had put off a trip to Saudi Arabia because you wanted
24 to make sure that some issues had been resolved before you went
25 there. But then I seem to recall there was a letter that said

1 there were insufficient funds for you to come to New York for
2 this conference which suggested that perhaps there were not
3 sufficient funds for you to go to Saudi Arabia. So I'm trying
4 to understand the extent to which you've actually been able to
5 sit down face to face with the folks who ought to be producing
6 the documents, Mr. Radhi and others.

7 MR. McMAHON: Yes, Your Honor, good question. Mr.
8 Radhi wants me to come to Saudi as does the head of IIRO and
9 the head of MWL but there are no funds currently to take care
10 of that. And unfortunately, Your Honor, what's coming up
11 shortly is Ramadan when things really shut down in Saudi
12 Arabia. I'm hesitant to go over there during that time unless
13 I can get out of there maybe three days after it starts.

14 But yes, Your Honor, there's still a financial issue
15 about me getting over there. However, because some people now
16 understand the severity of the situation, there are ongoing
17 attempts to get me some travel funds. They just haven't come
18 in yet. Again, I told IIRO's chief executive officer this
19 morning, Dr. Basha, that I can't do anything unless the funds
20 are here. So yes, we have an ongoing funding issue.

21 THE COURT: Okay. I interrupted you by asking about
22 travel. Why don't you go on to the other points?

23 MR. McMAHON: Well, let me get something out of the
24 way, Your Honor, so that we can see something. There is this
25 gap for the '92, '93, '94 banking records. Now, what Samir

1 [Ph.] agreed to do, because the banks over there are getting
2 tired of producing stuff, is to get the '92, '93 and '94
3 banking records which with the records we have in our office,
4 '95 up, should be a complete production.

5 Now, I hesitated to -- we went out and tried to get a
6 copy of the Al Rajhi Bank records and everybody said they
7 couldn't do it. So I invited Mr. Carter to come down and look
8 at the records here. Maybe we could even work out something so
9 that we ship them by Federal Express so that he has the time to
10 look at it. I certainly did not intend that somebody come down
11 here and say your hour is up by no means. But maybe --

12 THE COURT: Well, I'm missing something as to that.
13 Assuming that the bank can fill in the '92 to '94 gap, why
14 can't they also produce legible copies of '95 forward?

15 MR. McMAHON: Well, Your Honor, Samir is going to try
16 to get to the bottom of that issue. I only learned of it when
17 I started looking at it and said to Bethany, who works with me,
18 how are we going to produce this so that somebody can read it?
19 I think you can read it. It's in Arabic of course, different
20 Arabic numbers. You can read it but I'm hesitant to just spend
21 a sum of money copying something and then the copy version
22 comes out a lot more unreadable. So that's why I was thinking
23 if Mr. Carter could send somebody down and look at it, let them
24 then decide what they can do. I don't know anything else to
25 do, Your Honor. But I certainly did not intend that somebody

1 was going to come down here for an hour review and say that
2 your time is up. In fact, if somebody comes down here, as long
3 as they sign the appropriate documents, they can take it back
4 to Philadelphia. Samir's concern is that's the only copy they
5 have.

6 MR. CARTER: Your Honor --

7 MR. McMAHON: [Inaudible].

8 MR. CARTER: Your Honor, Mr. Carter. Just in
9 response to that, I think the concern that I expressed is a
10 little different than the one that Mr. McMahon is addressing.
11 The concern I expressed is that we asked whether or not another
12 version of this could be generated from a digital file. We
13 were told no, that was impossible. And when we then spoke to
14 Mr. Radhi, he told us it may very well be possible, he just
15 never checked. And when we asked about the gap in the '92 to
16 '95 which were subject of Your Honor's order, he simply told us
17 he didn't appreciate that he needed to look for those. He in
18 fact at some point during the call told us he was of the
19 understanding that Judge Casey had issued an order earlier in
20 this case that restricted discovery to the period of 1996 and
21 later. And he seemed to have no appreciation for Judge
22 Daniels' rulings setting discovery at 1992. So there is an
23 absolutely fundamental disconnect between what the Court has
24 directed and the effort that's ongoing in Saudi Arabia and
25 elsewhere to obtain responsive materials.

1 MR. McMAHON: Mr. Carter, did I tell you that there's
2 no way you could get a digital file? When did I do that?

3 MR. CARTER: I'm sorry, someone was whispering, I
4 didn't --

5 THE COURT: Yes. Mr. McMahon was inquiring as to
6 whether it was he or somebody else who represented that there
7 was no way to get a digital version of the banking records.

8 MR. McMAHON: In that case, Your Honor --

9 MR. CARTER: Your Honor --

10 THE COURT: Hang on. You asked the question. Let's
11 get an answer.

12 MR. CARTER: On June 28, 2011, Your Honor, I sent an
13 email to Mr. McMahon in reference to these records and it read,
14 "Martin, is it possible to simply run the print job again.
15 Thanks, Sean." And the response was, "Sean, no, these are
16 originals from the archives." That's it.

17 MR. McMAHON: I'm saying where did you say, you know,
18 check on the digital file? Who told you that there was no
19 digital file? That's what Mr. Al Radhi is checking out
20 currently in Saudi Arabia to see --

21 THE COURT: Well, I think the key point here, Mr.
22 McMahon, is there's a fairly comprehensive set of discovery
23 requests and in terms of production this is sort of death by a
24 thousand paper cuts. There's an obligation on the part of any
25 party to a lawsuit to produce documents within its possession,

1 custody or control and control extends to agents and every time
2 that the plaintiffs or the Court say well a particular item is
3 inadequate then somebody attempts to find that. And certainly
4 not the only defendant where we've had this issue. There's not
5 a comprehensive approach. And if, for example, there is not
6 enough money to get you to Saudi Arabia without passing the
7 collection cup, that bodes poorly for the ability to send
8 somebody, Mr. Al Radhi or somebody else, to look through the
9 records of, at a minimum, the Indonesian branch. Or even if
10 somebody doesn't go from Saudi Arabia to Indonesia for somebody
11 in Indonesia who's his counterpart to be looking for records,
12 putting aside the fact that I gather there were numerous
13 branches of these organizations.

14 So what's needed here is not chasing after particular
15 items highlighted by Mr. Carter today or on prior occasions.
16 What's needed is recognition of the fact that there are
17 language and cultural problems and perhaps financial problems,
18 but that if MWL and IIRO don't want dispositive discovery
19 sanctions against them, they need to get their act together.

20 MR. McMAHON: I understand, Your Honor. Let me
21 address the Indonesian office. I believe Mr. Carter misspoke
22 about Samir Al Radhi. My understanding was that he did visit
23 the Indonesian office. In fact, we provided counsel -- we sent
24 an auditor out there to go through all the records in the
25 Indonesian office and we produced that auditor's report to Mr.

1 Carter.

2 THE COURT: But they didn't want the auditor's
3 report, they want the underlying documents.

4 MR. McMAHON: Oh no, I know, Your Honor. But I
5 thought if he looked at that report and got back to me and said
6 Martin, this is what we need that's referenced in the auditor's
7 report we could narrow down the scope of the work entailed
8 because going to Indonesia is not a walk in the park.

9 MR. CARTER: Your Honor, if I may? It's almost the
10 perfect example.

11 THE COURT: Yes, Mr. Carter.

12 MR. CARTER: It's almost the perfect example. When
13 we spoke to Mr. Radhi he referenced the auditor's reports and
14 we essentially asked him well, wouldn't auditors have been
15 required to review some financial records in order to develop
16 these reports and he said of course. There have been a lot of
17 financial records and of course those were subject to Your
18 Honor's order. And what we have is auditor's report. When we
19 brought up the subject of Mr. Mujil, the response was well you
20 have an affidavit from him in which he denies that he did any
21 of this and if you want anything else, you know, I guess I
22 could call Mr. Mujil. And we said of course no, we want the
23 documents that are within the custody of the IIRO concerning
24 the activities he carried out as an employee. So it's --

25 MR. McMAHON: Part of the problem, Your Honor, is

1 Mujil is no longer with IIRO. But I think what Mr. Radhi
2 agreed to do is address all these concerns that arose out of
3 our phone conversation yesterday and one of them was if he can
4 secure anything pertaining to records that exist in the
5 Indonesian office pertaining to what's his name's activities,
6 we'll produce them.

7 THE COURT: Let me ask you, Mr. Carter, how do you
8 suggest we proceed here?

9 MR. CARTER: Your Honor, from our perspective there
10 was a very clear directive to be in full compliance by the 8th.
11 Mr. McMahon represented that they would. He also represented
12 in the letter that they were, that all responsive documents had
13 been identified and produced. It seems to me that there's an
14 acknowledgment in the discourse that we're having today that
15 that is not the case. And so, you know, I think our view is
16 that they are now in violation of three successive directives
17 of this Court and that this just simply shouldn't continue.
18 We're chasing our tails too much and it's a time to enter
19 sanctions against them.

20 THE COURT: Okay. Well then it seems to me what is
21 appropriate is for you to make a formal motion. By what date
22 do you wish to make that motion?

23 MR. CARTER: Your Honor, if I could just confer with
24 my co-counsel for a second?

25 THE COURT: Sure. Absolutely.

1 [Pause in proceedings.]

2 MR. CARTER: Your Honor, recognizing the potential
3 that we might have to do some affidavits and things for this
4 purpose, we were thinking that 30 days would probably do it.

5 THE COURT: Why don't I say August 19th which is
6 slightly more obviously? And then, Mr. McMahon --

7 MR. McMAHON: Can you give me three weeks, Your
8 Honor?

9 THE COURT: No problem with that. September 2nd.
10 We'll make it -- I'll give you slightly more. We'll make it
11 Monday, September 12th.

12 MR. McMAHON: Thank you, Your Honor.

13 THE COURT: And I think I'll give plaintiffs an
14 opportunity to reply by the 30th.

15 MR. CARTER: That's fine, Your Honor.

16 THE COURT: Okay.

17 MR. McMAHON: Your Honor, as a follow-up question, is
18 it too early to know when you'd be I guess having oral
19 arguments on this anticipated motion?

20 THE COURT: You're assuming facts not in evidence. I
21 typically do not have oral argument on any motions. My usual
22 view is that oral argument is a colossal waste of time for
23 everybody. As a practical matter, since we meet regularly, it
24 may be that I'd entertain it. But you shouldn't assume that
25 there'll be oral argument on the motion.

1 MR. McMAHON: Fine, Your Honor. I just wanted to
2 make sure if I had to calendar something. That's great.

3 THE COURT: Okay. Are there other things we ought to
4 talk about today? I guess since I asked the question at the
5 beginning the answer is no. Is that correct?

6 MR. McMAHON: Well, Your Honor, I had some issues. I
7 don't think --

8 THE COURT: Okay. Hang on a second. You can't see
9 what's occurring in the courtroom which is a huddle.

10 MR. CARTER: I think there was a request, Your Honor,
11 for an extension of the discovery deadline which was not in
12 dispute.

13 MALE SPEAKER: Deadlines.

14 MR. CARTER: Discovery deadlines.

15 THE COURT: And remind me, I know I got that request,
16 but remind me what you were asking me to do specifically.

17 MR. CARTER: I think we had proposed moving both the
18 deadline for document discovery and the deadline for all
19 liability discovery out by three months.

20 THE COURT: And if the parties on both sides agree, I
21 don't have a problem with that.

22 MR. CARTER: Thank you, Your Honor.

23 MR. KABAT: Well, we have agreed on extending the
24 document production deadline by three months.

25 MR. CARTER: I think you submitted to me a proposed

1 order also; right? Is that --

2 THE COURT: Well, whether you did or didn't, consider
3 it done and we'll make that part of the order flowing out of
4 this session today.

5 MR. KABAT: One issue we wanted to discuss --

6 THE COURT: Get closer to the microphone, Mr. Kabat,
7 because I want to make sure it picks up.

8 MR. KABAT: One issue we wanted to discuss was the
9 amount of time for deposition discovery after the completion of
10 document discovery. And we were thinking that if document
11 discovery ended at the end of November it would be feasible to
12 have five or six months for deposition discovery given that a
13 number of witnesses for some of the defendants are overseas
14 that it may be difficult to schedule depositions. And I have
15 not heard from plaintiffs as to whether they would be amenable
16 to five or six months for deposition discovery or if they have
17 something else in mind.

18 MR. CARTER: I think our proposal was simply to
19 extend the existing deadlines by corresponding amounts of time.

20 THE COURT: And assuming that's done how much time
21 was previously --

22 MR. CARTER: That's what I don't remember, Your
23 Honor. So maybe Mr. Kabat could tell me.

24 THE COURT: Well, I assume it wasn't 90 days given
25 what we're --

1 MR. CARTER: I assume not.

2 THE COURT: -- talking about here.

3 MR. COTTREAU: I think there was an ambiguity because
4 we had extended the document discovery. I'm sorry, for the
5 record --

6 THE COURT: Sure.

7 MR. COTTREAU: -- this is Steve Cottreau for Dubai
8 Islamic Bank. We had extended the document discovery deadline
9 previously from April to August and we didn't have a
10 corresponding formal extension of the discovery cutoff for
11 liability.

12 THE COURT: Well, let me put it this way. Whatever
13 the window was for depositions when we first had an omnibus
14 schedule will be the window unless the parties want to suggest
15 something else to me. If they do, I'll consider that. But I
16 would imagine it had to be on the order of at least five or six
17 months in any event given what you're talking about here.

18 MR. CARTER: That is correct, Your Honor. I think it
19 would have been reflected in the order Your Honor initially
20 entered in October of last year.

21 THE COURT: Okay. We'll go back, find out what that
22 period is. In fact, let me put the onus on you folks. Why
23 don't you submit to me an amended scheduling order, a
24 stipulated amended scheduling order as soon as you can and I
25 will sign that.

1 Anything else from the folks in the courtroom?

2 MR. KABAT: Yeah, we currently have a discovery
3 conference scheduled for July 28th and it's not going to be off
4 the table, but I don't think we have anything on the agenda --

5 THE COURT: I can't imagine what we would do with
6 that so that conference is cancelled. Anything else from folks
7 in the courtroom? Mr. McMahon, you're up.

8 MR. McMAHON: Thank you, Your Honor. If you recall,
9 and it was your suggestion many months ago, that while it's
10 wonderful that we had this great [inaudible] warehouse, why
11 can't we get an index of that warehouse? We got an index of
12 the warehouse and I purposely asked Mr. Radhi to explain that
13 index to the 9/11 lawyers. So I wanted you to know, Your
14 Honor, that there was some positive in yesterday's session.

15 Number two, you haven't discussed and/or ruled on my
16 come to Jeddah invitation which would clarify so many of these
17 issues firsthand.

18 Number two, we have an outstanding \$1.2 million
19 discovery vendor proposal from [inaudible] concerning 6,000
20 [inaudible] at the MWL. Nothing's been said about that. And I
21 think that's about it for me other than the fact that please
22 come to the London office and see how the office operates and
23 please visit an office overseas say in Africa where the embassy
24 bombings occurred.

25 I want Your Honor to keep in mind something which I'm

1 getting really tired of with the 9/11 case. There was a series
2 of Al Qaeda terrorist events. They start in 1996, Your Honor.
3 It's not the African war which the 9/11 lawyers are now
4 suggesting we go back to. In 1996 the Khobar Towers were
5 bombed in Saudi Arabia. A lot of US Air Force lives were lost,
6 a tragedy. Then in '98 the embassy bombings occurred in
7 Africa. Then in 2000 it's the USS Cole and of course then the
8 Wall Street 9/11 tragedy. So think, Your Honor. I have to
9 give them 1992 banking records concerning the 1996 Khobar
10 Towers? In other words, there were banking records four years
11 before that and six years before the embassy bombings and seven
12 years before the USS Cole and eight years before 9/11? What
13 kind of financial activities anywhere would reveal anything
14 about those events which may not have occurred? I don't think
15 you have sight, Your Honor, of the relevancy here and you gave
16 them an extra two years too.

17 Keep in mind what their theory is. The offices of
18 these charities are the epicenters of advancing international
19 terrorism. The Orphans Fund, different kinds of terrorism as
20 well. They don't want to come to the offices and discover that
21 there's nothing there. I've had my patience, Your Honor, but
22 I'm getting very frustrated with the scope of this case. It's
23 never going to end.

24 MR. CARTER: Well, Your Honor, with regard to the
25 1992 issue, that was a decision rendered by Judge Daniels based

1 on full briefing of the parties. So I don't know that there's
2 any reason we should be revisiting that.

3 The other points that Mr. McMahon raised were in fact
4 points he raised in all of the briefs ever filed in the case
5 and in particular in the responses he offered in response to
6 the motions to compel. You know, the Court issued very
7 specific directives relative to very specific categories of
8 information. And you know, all we're focusing on is their
9 compliance with that and all of these other things are sort of
10 red herrings and sidetracks. And it's difficult at this point
11 for me to understand how Mr. McMahon proposes that we would
12 travel all around the world to these offices when he can't get
13 money for a train ticket to New York.

14 MR. McMAHON: I said London, Mr. Carter.

15 THE COURT: No, you said, Mr. McMahon, you said come
16 to Jeddah and London and presumably for that to be a useful
17 exercise you would have to prepare the people, let's take
18 Jeddah, in Jeddah for at a minimum be there as an intermediary.
19 I don't think you'd want Mr. Carter or his Arabic speaking
20 counterpart to meet with your client ex parte without you being
21 present. If you can't come to New York it bodes poorly for
22 what might happen if it went to Jeddah. So in particular given
23 the circumstances of the last few weeks where it sounds like
24 funds are, to put it mildly, tight at your end, I well
25 understand Mr. Carter declining to accept the invitation to go

1 to Jeddah. In terms of London or another office, I suppose
2 that, you know, there's some appeal to what you say. If I were
3 in Mr. Carter's shoes, I might go to one of those offices but
4 I'm not them and I'm certainly not going to direct that that
5 occur. But we have gone through that a number of times. And
6 in terms of what you suggest is over-breadth here in terms of
7 discovery, I guess one reaction I have is given the limited
8 amount of documents that the plaintiffs have been able to
9 secure, talking about over-breadth is almost pointless because
10 even in a narrowed fashion they haven't gotten documents to
11 which they're entitled.

12 As to the 1992 period, Mr. Carter is absolutely
13 right. Judge Daniels set that, so if you have a gripe with
14 that, direct it to Judge Daniels. I guess that's really all I
15 want to say on the topic.

16 So the next date we have I believe is September 8th
17 and see you all then.

18 ALL: Thank you, Your Honor.

19 MR. FLEMING: Judge --

20 THE COURT: I'm sorry. Yes?

21 MR. FLEMING: I have another issue.

22 THE COURT: Yes. Just identify yourself again. You
23 probably get drowned out.

24 MR. FLEMING: Yes. Tim Fleming for the Havlish
25 plaintiffs.

1 THE COURT: Yes.

2 MR. FLEMING: And I return to the damages question.
3 Regardless of the answer to the question of when actual damages
4 hearings to determine damages for the Havlish plaintiffs would
5 be appropriate assuming that a judgment or a finding on
6 liability is forthcoming, regardless of when -- and I'm not
7 sure that the answer to that question as to when those hearings
8 is quite so simple, but regardless of what the answer is, the
9 Havlish attorneys would be interested in having a session with
10 you simply to understand what your viewpoint is on the proper
11 method format of making a presentation to you on the damages
12 questions [inaudible] --

13 THE COURT: If you plug in in Westlaw Maas and
14 inquest -- actually, I was about to say you'd get a sense of
15 what I require but that's not accurate. We have a boilerplate
16 inquest order that we use that may be more appropriate to
17 commercial disputes but essentially gives you the way I usually
18 deal with it.

19 What we will do is make that available to both
20 plaintiffs and defendants committees and we'll send you a copy
21 as well so that you see what we customarily do and then anybody
22 who wishes to can suggest modifications. Okay?

23 MR. FLEMING: Very well.

24 MR. COTTREAU: Your Honor, one last point.

25 THE COURT: Oh, sure.

1 MR. COTTREAU: Steve Cottreau again for Dubai Islamic
2 Bank. Did I take your prior comment to mean that the August
3 hearings are cancelled as well? I think you mentioned the next
4 -- you'll see us on September 9th.

5 THE COURT: Yes. When is -- what is the August date
6 that we have?

7 MR. COTTREAU: I believe there was a date during the
8 week of the 7th.

9 THE CLERK: August 11th and August 25.

10 THE COURT: Well, we certainly don't need two
11 sessions in August.

12 THE CLERK: Just for clarification, Your Honor, I
13 thought I heard that you had said September 8 [inaudible].

14 THE COURT: Well, I was basing it upon my law clerk
15 telling me that we had moved it from September 9th to September
16 8th; is that right? Oh, we moved it, we just didn't tell you
17 we moved it.

18 THE CLERK: I [inaudible].

19 THE COURT: So hopefully that date works for
20 everyone. That is the day after Labor Day?

21 THE CLERK: Two days after Labor Day.

22 THE COURT: Okay.

23 THE CLERK: That Thursday.

24 THE COURT: So yes, September 8th. And in terms of
25 either of the August dates, does anybody see the need for an

1 August session?

2 MR. CARTER: There will likely be a dispute ripe at
3 that time, Your Honor. You know, I think we're reluctant to
4 defer further dates because it keeps pushing the discovery
5 schedule out.

6 THE COURT: Okay. The August 20 -- I'm not sure how
7 we ended up with two August dates but August 25th probably is
8 not feasible for me. What was the other date?

9 THE CLERK: August 11th.

10 THE COURT: Let me just double check while
11 everybody's here and make sure it is on our calendar. What
12 time? 11?

13 THE CLERK: 11 o'clock unless the parties ask
14 [inaudible].

15 THE COURT: All right. Can you look at the calendar
16 on August 11th in the morning? Is the terrorist case on the
17 calendar? Okay. And what's the next thing after that? Okay.
18 Great. Thank you.

19 [Pause in proceedings.]

20 THE COURT: August 11th at 11. See you then.

21 ALL: Thank you.

22 THE COURT: Have a good day.

23 * * * * *

24

25

1 I certify that the foregoing is a court transcript from an
2 electronic sound recording of the proceedings in the above-
3 entitled matter.

4
5 _____
6 Mary Greco

7 Dated: July 19, 2011
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